

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLIAM MATTHEW LOLLIS,
Plaintiff,
v.
L. MUNDY, et al.,
Defendants.

No. 2:22-cv-0486 WBS DB P

ORDER

Plaintiff is a state prisoner proceeding pro se with a civil rights action under 42 U.S.C. §1983. Plaintiff alleges defendants falsified a disciplinary report in retaliation for plaintiff's statement that he intended to file a grievance against them. Plaintiff has requested appointment of counsel. He argues that he cannot afford an attorney, has limited law library access, has no legal experience or education, and the case is complex.

The United States Supreme Court has ruled that district courts lack authority to require counsel to represent indigent prisoners in § 1983 cases. Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, the district court may request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990).

The test for exceptional circumstances requires the court to evaluate the plaintiff's likelihood of success on the merits and the ability of the plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved. See Wilborn v. Escalderon, 789 F.2d 1328,

1 1331 (9th Cir. 1986); Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983). Circumstances
2 common to most prisoners, such as lack of legal education and limited law library access, do not
3 establish exceptional circumstances that would warrant a request for voluntary assistance of
4 counsel.

5 Plaintiff's circumstances are the same as those faced by many prisoners. Further, this
6 court does not find the present case particularly complex. Plaintiff has one claim – that
7 defendants retaliated against him by falsifying a disciplinary report. Plaintiff has not shown the
8 exceptional circumstances that would justify a request for the voluntary assistance of counsel.

9 Plaintiff also states that he is confused about the status of this case. Plaintiff is advised
10 that he should carefully review the court's May 5, 2023 Discovery and Scheduling Order. It
11 explains some things plaintiff should do to prepare for trial. It also provides deadlines for
12 discovery and identifies the specific federal rules that plaintiff should review if he wishes to send
13 discovery requests to defendant. If plaintiff has missed deadlines to send discovery requests, he
14 may request an extension of time to do so. If plaintiff seeks an extension of time, he must explain
15 the reasons to show there is good cause for the court to grant him additional time.

16 Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for the appointment of
17 counsel (ECF No. 43) is denied.

18 Dated: August 7, 2023

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22 DEBORAH BARNES
23 UNITED STATES MAGISTRATE JUDGE
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26 DB prisoner inbox/civil rights/R/loll0486.31
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